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Narcotic Act

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Narcotic Act

(Division X - Health and Safety Code)

State of California

Excluded from California Vehicle Code
Relative to Drug Addicts

Excluded from Controlled Weapons Act
Relative to Drug Addicts



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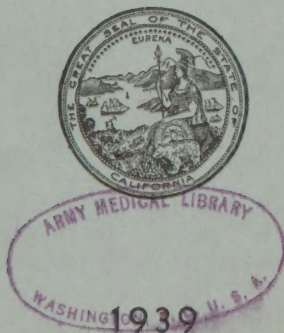
Narcotic Act

(Division X - Health and Safety Code)

State of California

Excerpts From California Vehicle Code
Relating to Drug Addicts

Excerpts From Concealed Weapon Act
Relating to Drug Addicts



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Chapter 60 (Statutes 1939) approved April 7, 1939

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DIVISION X. NARCOTICS.

CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS.

Article 1. Definitions.

11000. As used in this division, the terms "physician," "veterinarian," "dentist," "pharmacist," and "osteopath," or any similar designation, mean persons who hold valid, unrevoked certificates to practice their respective professions in this State, issued by their respective examining boards in this State.

11001. "Narcotics," as used in this division, means any of the following:

- (a) Cocaine.
- (b) Opium.
- (c) Morphine.
- (d) Codeine.
- (e) Heroin.
- (f) Alpha eucaine.
- (g) Beta eucaine.
- (h) Chloral hydrate.

(i) All parts of the plant *cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin; but not including the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

11002. "Narcotics," as used in this division, also means any of the salts, derivatives, or compounds of a narcotic or any preparation or compound containing a narcotic or its salts, derivatives, or compounds.

11003. "*Cannabis sativa*," as used in this division, means the male and female of any species commonly known as *cannabis sativa*, hemp, Indian hemp, loco weed, or marihuana.

11004. "State division," as used in this division, means the Division of Narcotic Enforcement in the State Department of Penology.

11005. "Chief," as used in this division, means the Chief of the Division of Narcotic Enforcement.

11006. "Board of Pharmacy," as used in this division, means the California State Board of Pharmacy.

11007. "Prescription," as used in this division, means a prescription for a narcotic.

11008. "Sale," as used in this division, includes barter, exchange, or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

11009. "Addict," as used in this division, means a person addicted to the unlawful use of narcotics.

11010. "Opium pipe," as used in this division, includes a pipe for the smoking of opium, together with the usual attachments for the pipe.

11011. "Vehicle," as used in this division, means any vehicle or equipment used for the transportation of persons or things.

11012. "Transport," as used in this division, with reference to narcotics, includes "conceal," "convey," or "carry."

11013. "Owner," as used in this division, with reference to a vehicle, means any person having any right, title, or interest in it.

Article 2. Scope and General Provisions.

11035. Any record required by this division shall be open at all times to inspection by the State division.

11036. No person shall transport, sell, furnish, administer, or give away, or offer to transport, sell, furnish, administer, or give away, or attempt to transport, or have in possession any narcotics except as provided in this division.

CHAPTER 2. DIVISION OF NARCOTIC ENFORCEMENT.

11100. There is in the Department of Penology a Division of Narcotic Enforcement.

11101. There is a chief of the Division of Narcotic Enforcement, who is appointed and whose salary is fixed by the Governor.

11102. The State division shall enforce all laws regulating the sale, giving away, prescribing, administering, furnishing, or having in possession narcotic or other dangerous drugs other than those drugs enumerated in schedules "A" and "B" of Chapter 102, Statutes of 1907.

11103. The chief may, subject to the approval of the Department of Finance, employ and fix the compensation of such inspectors, chemists, clerical, and other employees as are necessary. Two of the inspectors shall be registered licentiates in pharmacy.

11104. The State division may employ a physician to interview and examine any patient for whom any narcotic has been prescribed or to whom any narcotic has been furnished or administered, and who is an habitual user of narcotics.

The patient shall submit to the interview and examination and shall not in any manner hinder or impede it.

The physician employed by the State division to conduct the interview and examination shall report the results of the examination and interview to the State division.

The physician so employed may testify in any action brought under this division or in any hearing before the State Board of Medical Examiners and his testimony is not privileged.

Every person who violates any provision of this section is guilty of a misdemeanor.

11105. The chief and the inspectors appointed by him have the powers and duties of peace officers in the performance of their duties.

11106. The chief and the inspectors appointed by him, when authorized so to do by the chief, may expend such sums as the chief deems necessary in the purchase of drugs for evidence and in the employment of operators to obtain evidence.

The sums so expended shall be repaid to the officer making the expenditures upon claims audited by the chief and approved by the Department of Finance. The claims when approved shall be paid out of the funds appropriated or made available by law for the support or use of the State division.

11107. This division does not prohibit the inspectors of the Board of Pharmacy from inspecting records in connection with the regulation of the sale, giving away, prescribing, or administering, of narcotics or other drugs.

CHAPTER 3. PRESCRIPTIONS.

Article 1. Requirements of Prescriptions.

11160. No person shall transport, sell, furnish, administer, or give away, or offer to transport, sell, furnish, administer, or give away, or attempt to transport a narcotic except upon the written prescription of a physician, dentist, or veterinarian licensed to practice in this State.

11161. No person, other than a physician, dentist, or veterinarian, shall write a prescription.

11162. No person shall write or issue a prescription that does not conform to this division.

11163. Except in the regular practice of his profession, no person shall prescribe, administer, or furnish, a narcotic to or for any person who is not under his treatment for a pathology or condition other than narcotic addiction, except as provided in this division.

11164. No person shall prescribe for or administer a narcotic to an addict, or to any person representing himself as such, except as permitted by this division.

11165. No person shall issue a prescription that is false or fictitious in any respect.

11166. No person shall write a prescription unless it is wholly written, in handwriting, signed, and dated by him as of the date on which it is written, and contains the name and address of the person for whom prescribed.

11166.05. Prescription blanks shall be issued by the division in serially numbered books of one hundred blanks each, and shall be furnished free of cost to any person authorized to write a prescription.

11166.06. The prescription blanks shall be printed on distinctive paper, serial number of the book being shown on each form, and also each form being serially numbered.

Each prescription blank shall be printed in triplicate with one blank attached to the book in such a manner that it will not be readily removed, while two of the blanks shall be perforated for removal. The original, duplicate, and triplicate blanks shall be printed in distinctive colors.

11166.07. Not more than one such prescription book shall in any case be issued or furnished by the division to the same prescriber at one time, nor shall more than one book be issued during any period of ninety days unless the prescriber shall show to the satisfaction of the division that for some extraordinary reason additional prescription blanks are necessary.

11166.08. No person shall issue a prescription other than on the official prescription form issued by the division, and no person shall fill any prescription other than on the official prescription form issued by the division, except that in the case of an epidemic or a sudden or unforeseen accident or calamity a prescriber may issue a prescription upon a form other than the official prescription form issued by the division, where failure to issue such prescription might result in loss of life or intense suffering, but such a prescription shall describe fully the accident, calamity, or circumstances constituting the emergency because of which the unofficial blank is used.

11166.09. All prescriptions on the official blanks shall be written in triplicate, all three copies signed by the prescriber.

11166.1. The prescription book containing the triplicate copies of prescriptions issued shall be retained by the prescriber which shall be preserved for two years and shall at all times be open to inspection by inspectors of the State division and inspectors of the Board of Pharmacy.

11166.11. The original and duplicate copies of the prescription shall be delivered to the person filling the prescription. The original shall be retained by the person filling the prescription, and at the end of each month in which the prescriptions were issued, the duplicate shall be returned to the division by the person filling it.

11166.12. The provisions of this code with reference to the writing of narcotic prescriptions on official blanks and the filling thereof do not apply to any preparations exempt under Article 2 of this chapter.

11167. No person shall prescribe or furnish a narcotic for himself.

11168. No person shall prescribe, administer, or furnish a narcotic except under the conditions and in the manner provided by this division.

11169. No person shall antedate or postdate a prescription.

11170. No person shall, in connection with the prescribing, furnishing, administering, or dispensing of a narcotic, give a false name or address or make any false statement.

11171. No person shall obtain or possess a prescription that does not comply with this division.

11172. No person shall furnish a narcotic pursuant to a telephone order, except that in an emergency a pharmacist may deliver a narcotic through his employee or responsible agent pursuant to the telephone order of a person authorized to prescribe a narcotic, if the employee or agent is supplied with a prescription before delivery.

The employee or agent shall immediately deliver the prescription to the pharmacist. The pharmacist shall file the prescription within a reasonable time.

11173. No person shall fill a prescription if it shows evidence of alteration, erasure, or addition by any person other than the person writing it.

11174. No person shall fill a prescription unless it is tendered to him on or before the seventh day following the date of issue.

11175. A person who fills a prescription shall keep it on file for at least three years from the date of filing it.

11176. No person shall obtain or possess a narcotic obtained by a prescription that does not comply with this division.

11177. A narcotic prescription on file shall at all times be open to inspection by the prescriber, and properly authorized officers of the law, including all inspectors of the State division and of the Board of Pharmacy.

11178. Any violation of this article where no other punishment is prescribed is a misdemeanor.

Article 2. Exempt Narcotics.

11200. The provisions of this division requiring prescriptions and physicians' reports do not apply to preparations of the United States Pharmacopoeia, National Formulary, United States Dispensatory, or other recognized or established formulae or to remedies or prescriptions sold or prescribed in good faith for medicinal purposes only and not for the purpose of satisfying addiction, containing codeine without additional narcotics, or not more than ten grains of chloralhydrate, or two grains of Indian hemp or loco weed in one fluid ounce, or, if a solid preparation, in one ounce avoirdupois, except tincture opii camphorata (commonly known as paregoric) which may be sold only upon the prescription of a physician, and the prescription shall not be again refilled or dispensed.

11201. This article does not except tincture opii camphorata (commonly known as paregoric) from the provisions of this division and it may be sold only upon the prescription of a physician, and the prescription shall not be again refilled or dispensed.

Article 3. Prescriber's Record.

11225. Every person who issues a prescription, or administers or dispenses a narcotic shall make a record that, as to the transaction, shows all of the following:

- (a) The name and address of the patient.
- (b) The date.
- (c) The character and quantity of narcotics involved.
- (d) The pathology and purpose for which the prescription is issued, or the narcotic administered, prescribed, or dispensed.

11226. The record shall be preserved for two years and shall at all times be open to inspection by inspectors of the State division and inspectors of the Board of Pharmacy.

Every person who violates any provision of this section is guilty of a misdemeanor.

11227. In a prosecution under this division proof that a defendant received or has had in his possession at any time a greater amount of narcotics than is accounted for by any record required by law is prima facie evidence of guilt.

Article 4. Copies of Prescriptions.

11250. No person shall make or deliver to any person a copy or duplicate of a prescription, except that a copy may be made by or made and delivered to an inspector of the Board of Pharmacy or the chief or inspector of the State division.

Article 5. Refilling Prescriptions.

11275. No person shall refill a narcotic prescription. However, where a prescription was originally issued for a narcotic preparation for which a prescription was not by law required, a prescription can be refilled unless the prescriber otherwise directs.

CHAPTER 4. USE OF NARCOTICS.

Article 1. Lawful Medical Use other than Treatment of Addicts.

11330. A physician may prescribe for, furnish to, or administer narcotics to his patient when the patient is suffering from a disease, ailment, injury, or infirmities attendant upon old age, other than narcotic addiction.

The physician shall prescribe, furnish, or administer narcotics only when in good faith he believes the disease, ailment, injury, or infirmity, requires such treatment.

The physician shall prescribe, furnish, or administer narcotics only in such quantity and for such length of time as are reasonably necessary.

11331. A physician shall not furnish or prescribe narcotics in order to satisfy the narcotic addiction of a user of narcotics.

11332. Every person who violates any provision of this article is guilty of a misdemeanor.

Article 2. Treatment of Addicts for Addiction.

11390. Any narcotic employed in treating an addict for addiction shall be administered by a physician, or by a registered nurse acting under his instruction.

11391. No person shall treat an addict for addiction except in one of the following:

(a) An institution approved by the board of medical examiners, and where the patient is kept under restraint and control.

(b) A city or county jail.

(c) A State prison.

(d) A State narcotic hospital.

This section does not apply during emergency treatment or where the patient's addiction is complicated by the presence of incurable disease, serious accident, or injury.

11392. A physician treating an addict for addiction shall not prescribe for or furnish the addict more than any one of the following amounts of narcotics during each of the first fifteen days of such treatment:

- (a) Eight grains of opium.
- (b) Four grains of morphine.
- (c) Two grains of cocaine.
- (d) Two grains of any derivative of cocaine.
- (e) Two grains of heroin.

11393. After fifteen days of treatment the physician shall not prescribe for or furnish to the addict more than any one of the following amounts of narcotics during each day of such treatment:

- (a) Four grains of opium.
- (b) Two grains of morphine.
- (c) One grain of cocaine.
- (d) Two grains of any derivative of cocaine.
- (e) One grain of heroin.

11394. At the end of thirty days from the first treatment, the prescribing or furnishing of narcotics shall be discontinued.

11395. The physician treating an addict for addiction shall within five days after the first treatment report by registered mail, over his signature, to the State division, stating the name and address of the patient, and the name and quantities of narcotics prescribed.

The report shall state the progress of the patient under the treatment.

The physician shall in the same manner further report on the fifteenth day of the treatment and on the thirtieth day of the treatment, and thereafter shall make such further reports as are requested in writing by the State division.

11396. Every person who violates any provision of this article is guilty of a misdemeanor.

Article 3. Physicians' Reports.

11425. A physician prescribing or furnishing a narcotic to an habitual user shall within five days after first prescribing or furnishing the narcotic personally report in writing by registered mail, over his signature, to the State division.

The report shall contain all of the following:

- (a) Name of the patient.
- (b) Address of the patient.
- (c) Character of the injury or ailment.
- (d) Quantity and kind of narcotic used.
- (e) A statement as to whether or not the patient is an addict.

Every person who violates any provision of this section is guilty of a misdemeanor.

11426. The physician shall upon request in writing from the State division furnish any additional reports upon the treatment of the user as the State division may request in writing.

Article 4. Veterinarians.

11450. No veterinarian shall prescribe, administer, or furnish a narcotic for himself or any other human being.

11451. A prescription written by a veterinarian shall state the kind of animal for which ordered and the name of the owner or person having custody of the animal.

Article 5. Hypodermics.

11475. No person shall sell, vend, give away, or furnish, either directly or indirectly, to any person other than a physician, dentist, veterinarian, pharmacist, or osteopath, a hypodermic syringe, or a hypodermic needle, without a written, signed order from a physician, dentist, osteopath, or veterinarian. The order shall contain the name and address of the party for whom ordered.

11476. No person other than a physician, dentist, osteopath, registered nurse, veterinarian, or pharmacist, shall have in his possession a hypodermic syringe or a hypodermic needle, or any instrument or contrivance used for the same purpose, unless it was purchased by the person with a written order signed by a physician, dentist, veterinarian, or osteopath.

11477. No order shall be for more than one hypodermic syringe or for more than three hypodermic needles. No copy or duplicate of the order shall be made for or delivered to any person. The order or prescription shall not be refilled.

A registered nurse of this State or student nurse in any hospital or training school for nurses may obtain or possess a hypodermic syringe and hypodermic needles when working under the immediate direction and supervision of a physician or dentist.

11478. The Board of Pharmacy may upon application and in its discretion issue a permit, revocable in its discretion, to any pharmacist, for a limited period, permitting and authorizing the pharmacist to sell and dispense hypodermic syringes and needles for specific purposes, to persons not addicted to the use of narcotics.

11479. The provisions of this division with reference to hypodermic syringes and needles do not apply to the sale at wholesale by drug jobbers, drug wholesalers, and drug manufacturers to any of the following:

- (a) Pharmacies as defined in the Business and Professions Code.
- (b) Physicians.
- (c) Dentists.
- (d) Veterinarians.

(e) Other jobbers, wholesalers, or manufacturers.

Nor do such provisions apply to the sale at retail in pharmacies by pharmacists to any of the following:

(a) Other pharmacists.

(b) Physicians.

(c) Dentists.

(d) Veterinarians.

CHAPTER 5. MARIHUANA AND OPIUM.

Article 1. Marihuana.

11530. No person shall knowingly plant, cultivate, cut, harvest, dry, or process any flowering tops or leaves of *cannabis sativa*.

11531. Every person who possesses extracts, tinctures, or other narcotic preparations of hemp, or loco weed, their preparations or compounds containing more than two grains to each fluid or avoirdupois ounce, is guilty of a misdemeanor.

This section does not apply to corn remedies containing not more than fifteen grains of the extract or fluid extract of hemp to the ounce mixed with not less than five times its weight of salicylic acid combined with collodion.

Article 2. Opium.

11555. Every person who possesses an opium pipe is guilty of a misdemeanor.

CHAPTER 6. SALE WITHOUT PRESCRIPTION.

11570. No prescription is required in case of the sale of narcotics at retail in pharmacies by pharmacists to any of the following:

(a) Physicians.

(b) Dentists.

(c) Veterinarians.

In any sale mentioned in this article, there shall be executed any written order that may be otherwise required by law.

11571. No prescription is required in case of sales at wholesale by jobbers, wholesalers, and manufacturers to any of the following:

(a) Pharmacies as defined in the Business and Professions Code.

(b) Physicians.

(c) Dentists.

(d) Veterinarians.

(e) Other jobbers, wholesalers, or manufacturers.

11572. All wholesale jobbers, wholesalers, and manufacturers, mentioned in this division shall keep, in a manner readily accessible, the written orders or blank forms required to be preserved under the provisions of section 2 of the act of Congress, approved December 17,

1914, relating to the production, importation, manufacture, compounding, sale, dispensing, or giving away of opium or coca leaves and salts, derivatives, or preparations.

11573. The written orders or blank forms shall always be open for inspection by any peace officer or any inspector or member of the Board of Pharmacy or the chief or any inspector of the State division.

The written orders or blank forms shall be preserved for at least three years after the date of the last entry made.

11574. A true and correct copy of all orders, contracts, or agreements taken for narcotics shall be forwarded by registered mail to the State division within twenty-four hours after the taking of the order, contract, or agreement, unless the order, contract, or agreement is recorded as required under the provisions of section 2 of an act of Congress, approved December 17, 1914, relating to the production, importation, manufacture, compounding, sale, dispensing, or giving away of opium or coca leaves, their salts, derivatives, or preparations, by a wholesale jobber, wholesaler, or manufacturer, permanently located in this State, as provided for in that section.

11575. The taking of any order, or making of any contract or agreement, by any traveling representative or employee of any person for future delivery in this State, of any narcotic constitutes a sale within the meaning of this division.

11576. Within twenty-four hours after any purchaser in this State gives any order to, or makes any contract or agreement for purchases from or sales by, an out of State wholesaler or manufacturer of any narcotics for delivery in this State, the purchaser shall forward to the State division by registered mail a true and correct copy of the order, contract, or agreement.

CHAPTER 7. ENFORCEMENT.

Article 1. Forfeiture of Vehicles.

11610. A vehicle used to transport any narcotic shall be forfeited to the State.

11611. Any peace officer of this State, upon making or attempting to make an arrest for a violation of this division, shall seize the vehicle used to transport the narcotics, and shall hold the vehicle as evidence until a forfeiture has been declared or a release ordered.

11612. Notice of seizure and intended forfeiture proceeding shall be filed with the county clerk and shall be served on all owners.

11613. Notice shall be given to each owner according to one of the following methods:

(a) Upon each owner whose right, title, or interest is of record in the Department of Motor Vehicles, by mailing a copy of the notice

by registered mail to the address as given upon the records of the Department of Motor Vehicles.

(b) Upon each owner whose name and address is known, to the last known address of the owner.

(c) Upon all other owners, whose addresses are unknown, but who are believed to have an interest in the vehicle, by one publication in a newspaper of general circulation in the county where the seizure was made.

11614. Within twenty days after the mailing or publication of the notice, the owner of the vehicle may file a verified answer to the fact of the use of the vehicle alleged in the notice of seizure and of the intended forfeiture proceeding.

11615. No extensions of time shall be granted for the purpose of filing the answer.

11616. If at the end of twenty days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and shall, upon motion, order the vehicle forfeited to the State.

11617. If a verified answer is filed, the forfeiture proceeding shall be set for hearing on a day not less than thirty days therefrom, and the proceeding has priority over other civil cases.

11618. Notice of the hearing shall be given in the same manner as provided for service of notice of seizure.

11619. At the hearing, any owner who has a verified answer on file may show by competent evidence that the vehicle was not used to transport narcotics, or that narcotics were not unlawfully possessed by an occupant of the vehicle.

11620. The claimant of any right, title, or interest in the vehicle may prove his lien, mortgage, or conditional sales contract to be bona fide and that his right, title, or interest was created after a reasonable investigation of the moral responsibility, character, and reputation of the purchaser, and without any knowledge that the vehicle was being, or was to be, used for the purpose charged.

11621. No person claiming a lien pursuant to Chapter 1 of Division VIII of the Vehicle Code shall be required to prove that his right, title, or interest was created after any investigation of the moral responsibility, character, and reputation of the owner, purchaser, or person in possession of the vehicle when it was brought to the claimant.

11622. In the event of such proof, the court shall order the vehicle released to the bona fide or innocent owner, lien holder, mortgagee, or vendor if the amount due him is equal to, or in excess of, the value of the vehicle as of the date of seizure, it being the intention of this section to forfeit only the right, title, or interest of the purchaser.

11623. If the amount due to such person is less than the value of the vehicle, the vehicle shall be sold at public auction by the Department of Finance.

11624. The Department of Finance shall publish a notice of the sale by one publication in a newspaper published and circulated in the city, community, or locality where the sale is to take place.

11625. The remainder of the proceeds of the sale, after payment of the balance due on the purchase price, mortgage, or lien, shall be deposited in the State treasury.

11626. In any case the Department of Finance may, within thirty days after judgment, pay the balance due to the bona fide or innocent purchaser, lien holder, mortgagee, or vendor and purchase the vehicle for the State.

11627. If the court finds that the vehicle was not used to transport narcotics, the court shall order the vehicle released to the owner as his right, title, or interest appears of record in the Department of Motor Vehicles as of the date of the seizure.

11628. When a vehicle has been ordered forfeited to the State, it shall be turned over to the Department of Finance, which shall deliver to the State division such forfeited vehicles as may be needed by the division to enforce the provisions of this division.

11629. The provisions of this division relative to forfeiture of vehicles do not apply to a common carrier, or to an employee acting within the scope of his employment in the enforcement of this division.

Article 2. Seizure and Disposition of Narcotics.

11650. Narcotics possessed in violation of this division, and all opium pipes, may be seized by any peace officer, and in aid of such seizure a search warrant or search warrants may be issued in the manner and form prescribed in the Penal Code.

11651. All opium pipes seized under the provisions of this division shall, upon conviction of the owner or defendant, be ordered destroyed by the judge of the court in which conviction is had.

11652. The order of destruction shall contain the name of the party charged with the duty of destruction, but the judge shall turn all such evidence over to the State division for destruction.

11653. All narcotics that have been seized under this division shall, by order of the court upon the conviction of the owner or defendant, be turned over immediately to the State division for destruction or disposition.

11654. Narcotics and opium pipes seized under this division, now in the possession of any city or county official, or of the State Board of Pharmacy, or that may hereafter come into their possession, in which no trial was had, shall be delivered to the State division for destruction or disposition.

No narcotics or opium pipes coming into the possession of the State division as described in this section shall be destroyed within six months from seizure.

11655. The State division may dispose of narcotics, other than heroin or smoking opium, by gift to the medical superintendents of State prisons or State hospitals, for medical purposes.

11656. When narcotics or opium pipes have been seized pursuant to this division and the defendant or owner has escaped from custody and is a fugitive from justice, they shall upon demand of the State division, be turned over to it for safekeeping until such time as the owner or defendant is apprehended and prosecuted for violation of this division.

11657. When narcotics or opium pipes have been seized pursuant to this division and the case has been disposed of by way of dismissal or otherwise than by way of conviction, they shall by order of the court, be turned over immediately to the State division, unless the court finds that the narcotics were lawfully possessed by the defendant.

Article 3. Prosecutions and Disposition of Fines.

11680. The district attorney of the county in which any violation of this division is committed shall conduct all actions and prosecutions for the violation.

However, subject to the approval of the Attorney General, the chief may employ special counsel for that purpose, who may take complete charge of the conduct of such actions or prosecutions. The chief may fix the compensation to be paid for the service and may incur such other expense in connection with the conduct of the actions or prosecutions as he may deem necessary. No attorney employed as special counsel shall receive as compensation more than three thousand five hundred dollars in any one year.

11681. All money, forfeited bail, or fines received under this division shall be sent without delay by the judge or magistrate receiving them, seventy-five per cent to the State Treasurer to be deposited in the State treasury, and twenty-five per cent to the city treasurer of the city, if the offense occurred in a city, otherwise to the treasurer of the county in which the prosecution is conducted.

11682. Judges and magistrates who collect fines or forfeitures under this division shall keep a record thereof, and, upon the imposition of any such fine or forfeiture, shall immediately transmit a record of it to the State Controller.

11683. When an imprisonment has been imposed for a violation of this division, and before the termination of the sentence, the defendant is released by the vacation of the sentence of imprisonment and the imposition of a fine or forfeiture instead, the fine or forfeiture shall be recorded and accounted for in the same manner as though it had been imposed in the first instance.

11684. Whenever a fine has been imposed for violation of this division, and before the full payment of the fine a sentence of imprisonment is imposed instead, the imprisonment shall be recorded and accounted for to the State Controller.

11685. Each judge or magistrate shall transmit to the State Treasurer an annual report of the fines and forfeitures collected by him during the calendar year. This report shall be rendered before the fifteenth day of January of the following year on blanks furnished by the State Controller.

11686. The State Controller shall check the reports and records of each judge and magistrate with the transmittals of fines and forfeitures and whenever it appears that fines or forfeitures have not been transmitted the State Controller shall bring suit to enforce their collection or transmittal, or both.

11687. The official bond of any judge or magistrate is liable for his failure to transmit the fines or forfeitures imposed by him under this division.

11688. The records kept by a judge or magistrate under this division are open to public inspection, and may be checked by the State Controller, the Attorney General, the district attorney of the particular county, or the State division.

Article 4. Penalties.

11710. Every person who visits or is in any room or place where any narcotics are being or have recently been smoked is guilty of a misdemeanor.

11711. Every person who opens or maintains to be resorted to by other persons any place on which narcotics are unlawfully sold, given away, or smoked is guilty of a felony.

11712. Any person convicted under this division for having in possession any narcotic, or of violating the provisions of sections 11530, 11531, or 11555, shall be punished by imprisonment in the county jail for not more than one year, or in the State prison for not more than six years.

If such a person has been previously convicted of a felony under the laws of the United States or of this or any other State, and if the

previous conviction of a felony is charged in the indictment or information and is found to be true by the jury, upon a jury trial, or is found to be true by the court, upon a court trial, or is admitted by the defendant, he shall be imprisoned in the State prison for not less than six months nor more than six years.

11713. Any person convicted under this division for transporting, selling, furnishing, or giving away, or offering to transport, sell, furnish, or give away, any narcotic shall be punished by imprisonment in the county jail for not less than six months nor more than one year, or in the State prison for not less than six months nor more than six years.

If such a person has been previously convicted of a felony under the laws of the United States or of this or any other State, and if the previous conviction of a felony is charged in the indictment or information and is found to be true by the jury, upon a jury trial, or is found to be true by the court, upon a court trial, or is admitted by the defendant, he shall be imprisoned in the State prison for not less than one nor more than ten years.

11714. Every person who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, preparing for sale, peddling, or using any narcotic is guilty of a felony punishable by imprisonment in the State prison for not less than one year nor more than six years; and for each subsequent offense shall be imprisoned in the State prison for not less than six years.

11715. Every person who forges or alters a prescription, or who issues a prescription bearing a forged or fictitious signature for any narcotic, or who obtains any narcotic by any forged, fictitious, or altered prescription, or who has in possession any narcotic secured by such forged, fictitious, or altered prescription, shall for the first offense be punished by imprisonment in the county jail for not less than six months nor more than one year, or in the State prison for not less than six months nor more than six years, and for each subsequent offense shall be imprisoned in the State prison for not less than one nor more than ten years.

11715.5. Any person not a citizen of the United States of America who is convicted of violating sections 11712, 11713, 11714, 11715, or of committing any offense referred to in those sections shall be reported to the appropriate agency of the United States having charge of deportation matters.

The certificate shall be issued by the court in which the conviction takes place, shall recite the facts of the case, and recommend that the defendant be deported.

11715.6. In no case shall any person convicted of violating sections 11712, 11713, 11714, 11715, or of committing any offense referred to in those sections, be granted probation by the trial court, nor shall the execution of the sentence imposed upon such person be suspended by the court.

11716. Every person who violates any provision of this division, except one for which a penalty is otherwise in this division specifically provided, is guilty of a misdemeanor punishable by a fine in a sum not less than thirty nor more than five hundred dollars, or by imprisonment for not less than thirty nor more than one hundred eighty days, or by both.

11717. The board of pharmacy may revoke the registration of any registered pharmacist or registered assistant pharmacist upon conviction of violating any provision of this division, and in such case the registration shall not be restored before the period of one year from the date of the revocation.

11720. A narcotic addict, within the meaning of this article, is any person who takes or otherwise uses any of the narcotics and who is so far addicted to the use of such narcotics as to have lost the power of self control with reference to his addiction, except that when such user of narcotics is suffering from an incurable disease or an accident or injury or from the infirmities of age and such narcotics are furnished, prescribed or administered to him in good faith and in the course of his professional practice by a physician and surgeon duly licensed in this State, in the course of treatment for such disease, ailment, injury, or infirmities, and are not so furnished or prescribed in order to satisfy the narcotic addiction of a user of narcotics, such person shall not be held to be an addict within the meaning of this article.

11721. A narcotic addict is punishable by imprisonment in the county jail for not less than three nor more than six months.

11722. In no case shall any narcotic addict punishable under this article be granted probation by the trial court, nor shall the execution of the sentence imposed upon such person be suspended by the court.

Article 5. Abatement.

11780. Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, or giving away any opium, morphine, cocaine, or heroin, and every building or place wherein or upon which such acts take place, is a nuisance which shall be enjoined, abated, and prevented, whether it is a public or private nuisance.

11781. Whenever there is reason to believe that such a nuisance is kept, maintained or exists in any county, the district attorney of the county, in the name of the people, shall, or any citizen of the State resident in the county, in his own name, may, maintain an action to abate and prevent the nuisance and perpetually to enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance.

11782. Unless filed by the district attorney, the complaint in the action shall be verified.

11783. If the existence of the nuisance is shown in the action to the satisfaction of the court or judge, either by verified complaint or affidavit, the court or judge shall allow a temporary writ of injunction to abate and prevent the continuance or recurrence of the nuisance.

11784. Except when it is granted on application of the people of the State, on granting the temporary writ the court or judge shall require a written undertaking on the part of the applicant, with sufficient sureties, to the effect that he will pay to the defendant enjoined such damages, not exceeding an amount to be specified, as the defendant sustains by reason of the injunction if the court finally decides that the applicant was not entitled to it.

11785. The action shall have precedence over all other actions, except criminal proceedings, election contests, hearings on injunctions, and actions to forfeit vehicles under this division.

11786. If the complaint is filed by a citizen it shall not be dismissed by him or for want of prosecution except upon a sworn statement made by him and his attorney, setting forth the reasons why the action should be dismissed, and by dismissal ordered by the court.

11787. In case of failure to prosecute the action with reasonable diligence, or at the request of the plaintiff, the court, in its discretion, may substitute any other citizen consenting thereto for the plaintiff.

11788. If the action is brought by a citizen and the court finds there was no reasonable ground or cause for the action, the costs shall be taxed against him.

11789. If the existence of the nuisance is established in the action, an order of abatement shall be entered as part of the judgment in the case, and plaintiff's costs in the action are a lien upon the building or place. The lien is enforceable and collectible by execution issued by order of the court.

11790. A violation or disobedience of the injunction or order for abatement is punishable as a contempt of court by a fine of not less than two hundred nor more than one thousand dollars, or by imprisonment in the county jail for not less than one nor more than six months, or by both.

11791. If the existence of the nuisance is established in the action, an order of abatement shall be entered as a part of the judgment, which order shall direct the removal from the building or place of all fixtures, musical instruments, and other movable property used in conducting, maintaining, aiding, or abetting the nuisance and shall direct their sale in the manner provided for the sale of chattels under execution.

The order shall provide for the effectual closing of the building or place against its use for any purpose, and for keeping it closed for

a period of one year, unless sooner released, as provided in this division.

11792. While the order of abatement remains in effect, the building or place is in the custody of the court.

11793. For removing and selling the movable property, the officer is entitled to charge and receive the same fees as he would for levying upon and selling like property on execution; and for closing the premises and keeping them closed, a reasonable sum shall be allowed by the court.

11794. The proceeds of the sale of the movable property shall be applied as follows:

First—To the fees and costs of the removal and sale.

Second—To the allowances and costs of closing and keeping closed the building or place.

Third—To the payment of the plaintiff's costs in the action.

Fourth—The balance, if any, to the owner of the property.

11795. If the proceeds of the sale of the movable property do not fully discharge all of the costs, fees, and allowances, the building and place shall then also be sold under execution issued upon the order of the court or judge and the proceeds of the sale shall be applied in like manner.

11796. If the owner of the building or place has not been guilty of any contempt of court in the proceedings, and appears and pays all costs, fees, and allowances that are a lien on the building or place and files a bond in the full value of the property, to be ascertained by the court, with sureties, to be approved by the court or judge, conditioned that he will immediately abate any such nuisance that may exist at the building or place and prevent it from being established or kept thereat within a period of one year thereafter, the court, or judge may, if satisfied of his good faith, order the building or place to be delivered to the owner, and the order of abatement canceled so far as it may relate to the property.

The release of property under the provisions of this division does not release it from any judgment, lien, penalty, or liability to which it may be subject.

11797. Whenever the owner of a building or place upon which the act or acts constituting the contempt have been committed, or the owner of any interest therein, has been guilty of a contempt of court, and fined in any proceedings under this division, the fine is a lien upon the building or place to the extent of his interest in it.

The lien is enforceable and collectible by execution issued by order of the court.

EXCERPTS FROM CALIFORNIA VEHICLE CODE RELATING TO DRUG ADDICTS

Section 269:

Grounds requiring refusal of license:

The department shall not issue an operator's or chauffeur's license to any person * * *

(b) Who is an habitual drunkard *or addicted to the use of narcotic drugs*.

Section 506:

Driving when addicted to or under influence of narcotic drugs:

It is unlawful for any person *who is addicted to the use, or under the influence, of narcotic drugs* to drive a vehicle upon any highway.

Any person convicted under this section shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State prison for not less than one year nor more than five years or in the county jail for not less than ninety days nor more than one year or by a fine of not less than two hundred dollars nor more than five thousand dollars or by both such fine and imprisonment.

EXCERPTS FROM CONCEALED WEAPON ACT

(Stats. 1931, p. 2316)

Section 2:

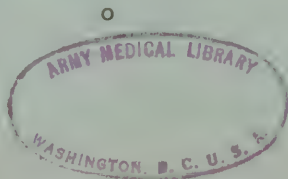
Aliens, *narcotic addicts* and felons must not possess certain firearms.

On and after the date upon which this act takes effect, no person not a citizen of the United States of America and no person who has been convicted of a felony, under the laws of the United States, of the State of California, or any other State or any other government or county (country), *or who is addicted to the use of any narcotic drug or drugs* shall own or have in his possession or under his custody or control any pistol, revolver or other firearm capable of being concealed upon the person. * * * Any person who shall violate the provisions of this section shall be punishable by imprisonment in the State prison not exceeding five years, or in a county jail not exceeding one year or by fine not exceeding five hundred dollars, or by both fine and imprisonment.

(Stats. 1923, p. 695)

Section 4:

No probation or suspension of sentence: In no case shall any person punishable under the preceding sections of this act be granted probation by the trial court, nor shall the execution of the sentence imposed upon such person be suspended by the court.



JUN 9 1950

PRESSBOARD
PAMPHLET BINDER

Manufactured by
GAYLORD BROS. Inc.
Syracuse, N. Y.
Stockton, Calif.

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